

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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The Minutes

November 1, 2004

- C045702 THE PEOPLE v. CLAY (Not for Publication)**
The judgment is affirmed.
NICHOLSON, J.
We Concur: Scotland, P.J.
Davis, J.
- C046141 THE PEOPLE v. DYKES, JR. (Not for Publication)**
The judgment is modified... As modified, the judgment is affirmed. The trial court is directed to amend the abstract of judgment reflecting this modification, and to forward a certified copy of the amended abstract to the Department of Corrections.
SCOTLAND, P.J.
We Concur: Davis, J.
Nicholson, J.
- C046257 THE PEOPLE v. DELLINGER (Not for Publication)**
The judgment is affirmed.
SCOTLAND, P.J.
We Concur: Davis, J.
Nicholson, J.
- C045264 In re M.J., JR., et al.; BUTTE COUNTY CHILDREN'S SERVICES DIVISION
C040730 v. M.J., SR. (Not for Publication)**
THE COURT:
Appellant petitions for rehearing in Case No. C045264 and alternatively requests recall of this court's remittitur in case No. C040730...
...Appellant's Petition for Rehearing pursuant to Government Code section 68081 in case No. C045264 and alternative Request to Recall the Court's Remittitur in case No. C040730 are denied.
FOR THE COURT:
SCOTLAND, P.J.
RAYE, J.
MORRISON, J.

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The Minutes

November 2, 2004

- C041880 THE PEOPLE v. DALBY (CERTIFIED FOR PUBLICATION)**
The sentences in counts 1 to 3, 9 to 20, and 22 are vacated, and the cause remanded to permit the trial court to exercise its discretion under section 669 to sentence defendant either consecutively or concurrently on those counts. The judgment is affirmed in all other respects. The trial court is also directed to delete count 21 from the list of counts for which defendant stood convicted in the amended abstract of judgment. The court shall forward the amended abstract of judgment to the Department of Corrections.
MORRISON, J.
We Concur: Blease, Acting P.J.
 Butz, J.
- C042955 THE PEOPLE v. HORN (Not for Publication)**
The convictions for assault with a firearm as included offenses in counts 1 through 3 are reversed and dismissed. The matter is remanded to the trial court for resentencing. In all other respects, the judgment is affirmed.
HULL, J.
We Concur: Davis, Acting P.J.
 Butz, J.
- C045130 THE PEOPLE v. HERMAN (Not for Publication)**
The judgment is affirmed. The trial court is directed to correct the abstract of judgment to (1) reflect the sentence imposed, i.e., a term of 25 years to life plus 10 years, and (2) delete the reference to AIDS testing, and to forward a certified copy of the corrected abstract to the Department of Corrections.
HULL, J.
We Concur: Scotland, P.J.
 Raye, J.
- C045301 THE PEOPLE v. SAMPSON (Not for Publication)**
The judgment is affirmed.
BLEASE, Acting P.J.
We Concur: Nicholson, J.
 Hull, J.
- C046282 THE PEOPLE v. MOOREWHEAT (Not for Publication)**
The judgment is affirmed.
BLEASE, Acting P.J.
We Concur: Nicholson, J.
 Hull, J.

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November 2, 2004, continued

- C046673 THE PEOPLE v. FRIAS (Not for Publication)**
Counts one, two, and three are dismissed. The trial court is directed to prepare an amended abstract of judgment reflecting this change and forward a copy thereof to the Department of Corrections. The judgment, as modified, is affirmed.
HULL, J.
We Concur: Blease, Acting P.J.
 Nicholson, J.
- C046774 THE PEOPLE v. JENSON (Not for Publication)**
The judgment is affirmed.
Blease, Acting P.J.
We Concur: Nicholson, J.
 Hull, J.
- C046992 THE PEOPLE v. HERNANDEZ (Not for Publication)**
The judgment is affirmed.
BLEASE, Acting P.J.
We Concur: Morrison, J.
 Hull, J.
- C043537 SINGH v. FREMONT MUTUAL FUNDS, INC. (Not for Publication)**
The order setting aside defendant's default and the default judgment entered thereon is affirmed.
HULL, J.
We Concur: Davis, Acting P.J.
 Butz, J.
- C046165 In re JORDAN H. et al., SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. WILLIAM H. et al. (Not for Publication)**
The orders of the juvenile court are affirmed.
HULL, J.
We Concur: Blease, Acting P.J.
 Nicholson, J.

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The Minutes

November 2, 2004, continued

C045277 THE PEOPLE v. JONES (CERTIFIED FOR PUBLICATION)

THE COURT:

Rehearing is ordered by the court's own motion in the opinion filed on October 18, 2004.

BY THE COURT:

SIMS, Acting P.J.

NICHOLSON, J.

ROBIE, J.

C045849 ABRAMS v. WALDREP et al.

BY THE COURT:

Appellant's petition for rehearing is denied.

BLEASE, Acting P.J.

C046335 ABRAMS v. BILLY

BY THE COURT:

Appellant's petition for rehearing is denied.

BLEASE, Acting P.J.

November 3, 2004

C043822 THE PEOPLE v. ZAKAR (Not for Publication)

The judgment is affirmed.

SCOTLAND, P.J.

We Concur: Sims, J.

Hull, J.

C044873 THE PEOPLE v. MONCAYO (Not for Publication)

The judgment of conviction of robbery is affirmed. The judgment of conviction of receiving stolen property is reversed. The trial court shall prepare an amended abstract of judgment reflecting this reversal and forward a certified copy of said abstract to the Department of Corrections.

RAYE, J.

We Concur: Sims, Acting P.J.

Davis, J.

C045211 THE PEOPLE v. DIAL, SR. (Not for Publication)

The judgment is affirmed.

HULL, J.

We Concur: Sims, Acting P.J.

Nicholson, J.

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The Minutes

November 3, 2004, continued

C045629 SILVA v. STOCKTON FURTHER PROCESSING, INC.

(Not for Publication)

The September 17, 2003, Final Order on Motions for Clarification, Motion to Strike, and Motion for Attorneys' Fees is reversed. The matter is remanded to the trial court for the sole purpose of amending the order to add a ruling on plaintiff's request for attorneys' fees/costs under the Fair Employment and Housing Act and, if appropriate, a net award pursuant to Code of Civil Procedure section 998, subdivision (e). The parties shall bear their own costs on this appeal. (Cal. Rules of Court, rule 27 (a) (4).)

SIMS, Acting P.J.

We Concur: Morrison, J.

Robie, J.

C045180 In re S.B.; THE PEOPLE v. S.B. (Not for Publication)

The judgment (order of the juvenile court) is affirmed.

NICHOLSON, J.

We Concur: Sims, Acting P.J.

Robie, J.

**C046100 In re KENNETH S.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH
AND HUMAN SERVICES v. MERCY S.**

**C046703 In re KENNETH S.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH
AND HUMAN SERVICES v. MICHAEL S. et al.**

(Not for Publication)

The appeal in case No. C046100 is dismissed.

The order of the juvenile court terminating the parental rights of Michael and Mercy is reversed, and the matter is remanded to the juvenile court with directions to order DHHS to provide each of the three Cherokee tribes with proper notice of the proceedings under the Act. If, after receiving notice under the Act, no tribe indicates the minor is an Indian child within the meaning of the Act, then the juvenile court shall reinstate the order terminating parental rights without conducting a new evidentiary hearing pursuant to section 366.26. If, on the other hand, a tribe responds affirmatively, then the court must consider the issue at a new section 366.26 hearing and conduct the hearing pursuant to the procedural and evidentiary requirements of the Act.

RAYE, J,

We Concur: Sims, Acting P.J.

Davis, J.

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The Minutes

November 3, 2004, continued

**C046371 In re B.W.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND
HUMAN SERVICES v. ROOSEVELT W. (Not for Publication)**

We affirm the order terminating defendant's parental rights.

RAYE, J.

We Concur: Sims, Acting P.J.

Davis, J.

C042024 THE PEOPLE v. LARSON

BY THE COURT:

Appellant's petition for rehearing is denied.

DAVIS, Acting P.J.

C042456 THE PEOPLE v. SONG

BY THE COURT:

Respondent's petition for rehearing was filed with this court on October 27, 2004, from the decision filed on October 12, 2004. Pursuant to rule 25(b)(2) of the California Rules of Court, the court requests appellant to serve and file an answer to the petition for rehearing by November 9, 2004.

MORRISON, Acting P.J.

C041479 In re MICHAEL LEE JENNINGS, on Habeas Corpus

In accordance with the opinion of the California Supreme Court in this matter, filed August 23, 2004, it is hereby ordered as follows:

1. The petition for writ of habeas corpus is granted;

2. The judgment in *People v. Michael Lee Jennings*, Sacramento County Superior Court No. 00M07614 is hereby vacated;

3. The case is remanded to the Sacramento County Superior Court for further proceedings;

4. The clerk of this court is directed to remit a certified copy of the opinion of the California Supreme Court in this matter to the superior court for filing;

5. If he has not already done so, the Attorney General shall serve a copy of the aforementioned opinion of the California Supreme Court on the District Attorney for the County of Sacramento in conformity with Penal Code section 1382, subdivision (a) (2).

SIMS, J.

We Concur: Scotland, P.J.

Nicholson, J.

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November 4, 2004

- C043923 THE PEOPLE v. DARBY (Not for Publication)**
The judgment is affirmed.
HULL, J.
We Concur: Davis, Acting P.J.
Butz, J.
- C044044 THE PEOPLE v. LARK (Not for Publication)**
The judgment is affirmed.
RAYE, J.
I Concur: Nicholson, Acting P.J.
I concur in the opinion except as to that portion discussing "Blakely Error" as to which I concur in the result...
HULL, J
- C045771 THE PEOPLE v. NELOMS (Not for Publication)**
The judgment is modified... As so modified, the judgment is affirmed.
ROBIE, J.
We Concur: Sims, Acting P.J.
Morrison, J.

November 5, 2004

- C043199 THE PEOPLE v. BLANK (Not for Publication)**
The judgment is affirmed.
HULL, J.
I Concur: Davis, Acting P.J.
I Concur except as to Part II of the Discussion, where I concur in the result.
Butz, J.
- C043685 THE PEOPLE v. BUTCHER (Not for Publication)**
The judgment is affirmed.
Davis, J.
I Concur: Robie, J.
I concur in the judgment and in the opinion except as to part IIIB of the Discussion, in which I concur in the result.
Blease, Acting P.J.
- C044131 THE PEOPLE v. ANTHONY (Not for Publication)**
The judgment is affirmed.
Davis, Acting P.J.
We Concur: Robie, J.
Butz, J.

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November 5, 2004, continued

- C045164 THE PEOPLE v. DAWKINS (Not for Publication)**
The judgment is modified... The judgment is affirmed in all other respects.
The cause is remanded for resentencing.
RAYE, J.
I Concur: Nicholson, J.
I concur in the judgment and opinion except as to part IV of the Discussion, as to
which I concur in the result:
Blease, Acting P.J.
- C045787 THE PEOPLE v. SCHAAR (Not for Publication)**
The judgment is affirmed and the request for modification is denied.
NICHOLSON, J.
We Concur: Blease, Acting P.J.
Hull, J.
- C046681 THE PEOPLE v. RAMOS (Not for Publication)**
We affirm the judgment.
NICHOLSON, J.
We Concur: Sims, Acting P.J.
Davis, J.
- C043321 MILLER v. RODGERS, INC. (Not for Publication)**
The judgment is affirmed. Wood Rodgers shall recover its costs on
appeal. (Cal. Rules of Court, rule 27(a).)
BUTZ, J.
We Concur: Hull, Acting P.J.
Robie, J.
- C044707 HODGE et al. v. FACCINTO et al. (Not for Publication)**
The order denying the special motion to strike is affirmed. The appeal
from the order denying recovery of legal fees is dismissed. Neither party shall
recover costs of appeal regarding our dismissal. The Hodges are awarded costs
in the appeal of the ruling on the motion to strike.
DAVIS, Acting P.J.
We Concur: Nicholson, J.
Morrison, J.

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November 5, 2004, continued

C045635 FRANK C. ALEGRA TRUCKING, INC. v. MONIER, INC.

(Not for Publication)

The judgment is affirmed. Monier shall recover costs on appeal.

RAYE, J.

We Concur: Sims, Acting P.J.

Morrison, J.

C044176 In re STEVEN M.; THE PEOPLE v. STEVEN M.

(Not for Publication)

The judgment is affirmed.

HULL, J.

We Concur: Davis, Acting P.J.

Robie, J.